IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

WP(C).No. 28075 of 2004(P)

PETITIONER:

UNNIKRISHNAN, PANNIVIZHA HOUSE,
THITTAMEL, CHENGANNOOR.

BY ADV. SRI.P.HARIDAS

RESPONDENTS:
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1. **STATE OF KERALA, REP. BY DISTRICT COLLECTOR, ALAPPUZHA.**

2. **JOINT REGIONAL TRANSPORT OFFICER, CHENGANNOOR.**

3. **DEPUTY TAHSILDAR (RR), CHENGANNOOR.**

4. **THE VILLAGE OFFICER, CHENGANNOOR.**

BY GOVERNMENT PLEADER SRI. V.TEKCHAND

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.28075/2004 P

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE F.I.R. DTD. 6/01/2000 IN CRIME NO.8/2000.**

EXT.P2: **COPY OF THE FINAL REPORT DTD. 19/04/2000.**

EXT.P3: **COPY OF THE NOTICE NO.23/04-05/MVI DTD. 30/07/2004 ISSUED BY THE 3RD RESPONDENT.**

EXT.P3(A): **COPY OF THE NOTICE NO.B423/04 BEFORE THE FIRST RESPONDENT BY THE PETITIONER DTD. 07/09/2004.**

EXT.P5: **COPY OF THE COMMUNICATION NO.C5/9671/04/A DTD. 9/09/2004 BY R.T.O. ALLEPPEY TO THE SECOND RESPONDENT.**

/TRUE COPY/

P.A.TO JUDGE

KSS

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).28075 OF 2004

Dated this the 18th day of October, 2007

JUDGMENT

This writ petition is filed challenging a demand made under the Kerala Motor Vehicles (Taxation) Act, 1976. The uncontroverted plea of the petitioner is that his vehicle was stolen and going by Ext.P2, it was treated as a case of undetected crime. On the basis of police report, the motor vehicle authorities had forwarded a report to the insurer and the insurer has satisfied the insurance claim. On such basis, I am inclined to take the view that the case of the petitioner, relying on Ext.P2 police report, is justified and his vehicle not been detected after it was lost, that too irretrievably, as a result which, he is not liable to be taxed. Hence, there could not be any demand for tax, at least, from the petitioner.

Accordingly, the demands made against the petitioner under the Motor Vehicles Taxation Act, as are impugned in this

writ petition and consequential proceedings under the Revenue Recovery Act are quashed. The writ petition is allowed.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.